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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,623	01/14/2005	Rui Yamada	09812.0503-00000	2018
22852 7590 12/22/2008 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
			EXAMINER BAYAT, ALI	
			ART UNIT 2624	PAPER NUMBER
			MAIL DATE 12/22/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,623

Applicant(s)

YAMADA ET AL.

Examiner

ALI BAYAT

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed on 11/03/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-76 is/are pending in the application.
- 4a) Of the above claim(s) 69-73, 75 and 76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45, 52, 63, 58, 69 and 74 is/are rejected.
- 7) ☒ Claim(s) 46-51, 53-62 and 64-68 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/14/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's arguments, see remarks, filed 11/03/08, with respect to Election/Restriction have been fully considered and are persuasive. Therefore claims 45-69 and 74 will be examined, and claims 70-73, 75 and 76 is withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 45, 58, 69 and 74 rejected under 35 U.S.C. 102(b) as being anticipated by Abe (US 5,568,194).

Regarding claim 45, Abe provides for a step of subtracting (Fig.3 element 111 col.5 lines 20-25, see difference between first and second luminance), from a pixel value of each pixel which constitutes second image data (Fig.3 element 106 col.5 lines 7-12) acquired by way of an imaging process causing a first light source to emit light (Fig.3 element 106 col.5 lines 7-12, see flash 16) , a pixel value of a corresponding pixel of first image (Fig.3 element 104, col.5 lines 1-7, which is stored the luminance signal y1 in element 105) data acquired by way of an imaging process causing the first light source not to emit light (Fig.3 element 104, col.5 lines 1-7,), and obtaining difference image data corresponding to an image captured in an irradiation environment of only the first light source (Fig.3

element 111 col.5 lines 20-25); a difference image data pixel value adjustment processing step of performing white balance adjustment (Fig.3 element col.6 lines 13-18) process as a pixel value adjustment process with respect to the difference image data (Fig.3 element 111) ; and a final pixel value adjustment image generation step of applying image data of adjusted pixel values generated in the difference image data pixel value adjustment processing step (Fig.3 element 118 col.6 lines 17-20), and generating a final pixel value adjustment image (Fig.3 element 118 col.6 lines 17-20).

Regarding claims 58 and 74 see the rejection of claim 45. They recite similar limitations as claim 45. Except for a memory (Fig.3 element 105 for storing Y1) for storing first image data acquire by way of an imaging process causing the first light source not to emit light (Fig.3 element 104). Hence they are similarly analyzed and rejected.

Regarding claim 69 see the rejection of claim 45. It recites similar limitations as claim 45. Hence it is similarly analyzed and rejected.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 52 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe (US 5,568,194) in view of Koseki et al. (Pub. No: US 2006/0250515 A1).

Regarding claim 52 and 63 Abe does not provide for a motion detecting step of detecting a moving portion where a subject moves according to the difference data of a plurality of image data; and a moving portion pixel value adjustment step of performing pixel value adjustment process with respect to the moving portion. Koseki teaches a motion detection step and adjusts the pixels value in regard to moving portion (Para.0032, see the last part). It would have been obvious to a person of ordinary skill in the art at time the invention was made to incorporate the teaching of Koseki with the system and method of Abe to correct degradation in image by motion correction meanincorporatea.0033 of Koseki.

Objected Claims

4. Claims 46-51,53-57,59-62 and 64-68 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALI BAYAT whose telephone number is (571)272-7444. The examiner can normally be reached on M-F 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew C Bella/
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12/18/08